
By: **Senators Kelley, Britt, Conway, Della, Forehand, Frosh, Garagiola,
Gladden, Grosfeld, Hogan, Hooper, Hughes, Jones, Miller, and Stone**
Introduced and read first time: February 5, 2004
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Medical Malpractice Insurance - Rates and Rate Filings**

3 FOR the purpose of requiring that, in establishing rates for medical malpractice
4 insurance, due consideration be given to total investment income; providing
5 that, for medical malpractice insurance, a rate is excessive if the rate does not
6 reflect the total investment income that the insurer reasonably can be expected
7 to earn on all its assets during the period the rate will be in effect or if for any
8 other reason the rate is unreasonably high for the insurance coverage provided;
9 requiring that the information provided in support of a filing for a medical
10 malpractice insurance rate include a certain memorandum; and generally
11 relating to rates and rate filings for medical malpractice insurance.

12 BY repealing and reenacting, without amendments,
13 Article - Insurance
14 Section 11-205(a)
15 Annotated Code of Maryland
16 (2003 Replacement Volume)

17 BY repealing and reenacting, with amendments,
18 Article - Insurance
19 Section 11-205(c) and (d) and 11-206(b)
20 Annotated Code of Maryland
21 (2003 Replacement Volume)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Insurance**

25 11-205.

26 (a) All rates shall be made in accordance with the principles set forth in this
27 section.

- 1 (c) Due consideration shall be given to:
- 2 (1) past and prospective loss experience within and outside the State;
- 3 (2) conflagration and catastrophe hazards, if any;
- 4 (3) past and prospective expenses, both countrywide and those specially
5 applicable to the State;
- 6 (4) underwriting profits;
- 7 (5) contingencies;
- 8 (6) (I) FOR INSURANCE OTHER THAN MEDICAL MALPRACTICE
9 INSURANCE, investment income from unearned premium reserve and reserve for
10 losses; AND
- 11 (II) FOR MEDICAL MALPRACTICE INSURANCE, TOTAL INVESTMENT
12 INCOME;
- 13 (7) dividends, savings, or unabsorbed premium deposits allowed or
14 returned by insurers to policyholders; and
- 15 (8) all other relevant factors within and outside the State.
- 16 (d) (1) Rates may not be excessive, inadequate, or unfairly discriminatory.
- 17 (2) FOR MEDICAL MALPRACTICE INSURANCE, A RATE IS EXCESSIVE IF:
- 18 (I) THE RATE DOES NOT REFLECT THE TOTAL INVESTMENT
19 INCOME THAT THE INSURER REASONABLY CAN BE EXPECTED TO EARN ON ALL ITS
20 ASSETS DURING THE PERIOD THE RATE WILL BE IN EFFECT; OR
- 21 (II) THE RATE FOR ANY OTHER REASON IS UNREASONABLY HIGH
22 FOR THE INSURANCE COVERAGE PROVIDED.
- 23 11-206.
- 24 (b) (1) (i) If a filing is not accompanied by the information on which the
25 insurer supports the filing and the Commissioner does not have sufficient
26 information to determine whether the filing meets the requirements of this subtitle,
27 the Commissioner shall require the insurer to provide supporting information for the
28 filing within 60 days.
- 29 (ii) If the Commissioner requires the filer to provide supporting
30 information, the waiting period under subsection (g) of this section begins on the date
31 the supporting information is provided.
- 32 (2) The information provided in support of a filing may include:
- 33 (i) the judgment of the filer;

- 1 (ii) the filer's interpretation of any statistical data relied on;
- 2 (iii) the experience of other filers; and
- 3 (iv) any other relevant factors.

4 (3) IN ADDITION TO ANY OTHER INFORMATION REQUIRED UNDER THIS
5 SECTION, THE INFORMATION PROVIDED IN SUPPORT OF A FILING FOR A MEDICAL
6 MALPRACTICE INSURANCE RATE SHALL INCLUDE A MEMORANDUM EXPLAINING
7 THE METHODOLOGY THE FILER USED TO REFLECT THE TOTAL INVESTMENT INCOME
8 THAT IT REASONABLY EXPECTS TO EARN ON ALL OF ITS ASSETS DURING THE PERIOD
9 THE PROPOSED RATE WILL BE IN EFFECT.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
11 effect October 1, 2004.